

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA

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| FILED IN OPEN COURT |
| APR 23 2014 |
| CLERK, U.S. DISTRICT COURT NORFOLK, VA |

v.

CRIMINAL ACTION NO: 2:14CR49

DAVID R. FLYNN

SENTENCING PROCEDURES ORDER

1. The sentencing hearing shall be scheduled no earlier than EIGHTY (80) DAYS following a plea of guilty or verdict of guilty, and sentencing is scheduled in this case at 11:00 am, on July 7, 2014, in Norfolk.

2. Counsel for the defendant is hereby given notice of the right to attend any interview of the defendant conducted by the Probation Officer in the course of the presentence investigation. Failure of counsel to immediately notify the probation officer within THREE (3) DAYS of the guilty verdict or plea of the intention to be present at such interviews shall be deemed by the Court to be a waiver of same.

3. The Presentence Investigation Report, including guideline computations, shall be completed and provided to the parties at least THIRTY-FIVE (35) DAYS prior to the sentencing hearing. A copy of this policy statement shall operate as notice to counsel that the Presentence Investigation Report will be furnished by the Probation Office THIRTY-FIVE (35) DAYS prior to the sentencing hearing. A copy of the Presentence Investigation Report may not be disclosed to persons other than the defendant.

4. If, after a review of the Presentence Investigation Report, there are no factors or facts material to guideline computations in dispute, counsel shall file a stipulation signed by the defendant

and all counsel FOURTEEN (14) DAYS after receiving the presentence report.

5. A party objecting to guideline determinations or facts in the Presentence Investigation Report shall deliver a written statement to the Probation Officer and opposing counsel within FOURTEEN (14) DAYS after receiving the presentence report setting forth any such objections and any authorities relied upon.

6. It is the obligation of the objecting party to seek resolution of such objections in conference with opposing counsel and the Probation Officer as soon as practicable, but no less than TEN (10) DAYS prior to the sentencing hearing. This presentence conference is mandatory when objections effecting guideline computations are in dispute, and it is the responsibility of the objecting party to schedule it with the Probation Officer and opposing counsel.

7. If any objections are unresolved prior to the sentencing hearing, counsel for the defendant and the government shall file a pleading entitled "Position of Parties with Respect to Sentencing Factors," ('Position Paper') containing all objections and the grounds therefore, in accordance with Section 6A1.2 of the Sentencing Guidelines and Policy Statements (Oct. 1987) SEVEN (7) DAYS prior to the sentencing hearing. A copy shall be delivered to the Probation Officer on the date of filing.

In addition to the advisory sentencing guidelines to court will look to the following language contained in 18 United States Code 3551 in determining an appropriate sentence for the defendant: "...except as otherwise specifically provided, a defendant who has been found guilty of an offense described in any Federal statute, ... shall be sentenced in accordance with the provisions of this chapter so as to achieve the purposes [for a sentence].

As listed in 18 U.S.C. 3553, those purposes are:

- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
- (B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and
(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

In determining what sentence would be sufficient, but not greater than necessary, to comply with the purposes set forth above, the Court should consider:

(A) the nature and circumstances of the offense and the history and characteristics of the defendant;
(B) the kinds of sentences available;
(C) the kinds of sentence and the sentencing range established for by the Sentencing Guidelines and pertinent Policy Statements; and
(D) the need to provide restitution to any victims of the offense".

8. If evidence is sought to be presented at the sentencing hearing, the parties shall file as a part of their Position Paper an outline of such evidence, including: (1) a description of the testimony of any witnesses sought to be called; (2) all documents; and (3) any affidavits. A copy shall also be filed with the Probation Officer. The Court may resolve objections upon the submissions of the parties and will hear witness testimony only for good cause shown.

9. The United States Probation Officer shall transmit to the sentencing judge the Presentence Investigation Report, including guideline computations, and an addendum indicating any unresolved objections by the parties with respect to the application of the guidelines **SEVEN (7) DAYS** prior to the sentencing hearing.

10. All motions for upward or downward departure, responses, and rebuttal shall be filed and served **FOURTEEN (14), SEVEN (7), and FOUR (4) DAYS**, respectively, before the sentencing date. A copy shall also be delivered to the Probation Officer on the same dates.

11. Failure of counsel to adhere to the times set forth in this Order shall result in written notification to the Court by the Probation Officer, with a copy provided to all counsel.

12. The times set forth in this Order may be modified by the Court for good cause shown. Time periods under this Order shall be CALENDAR days; no extra days for mailing shall be permitted.

Except for the Presentence Investigation Report itself, all papers and pleadings may be filed and served on opposing counsel and the Probation Officer by facsimile mail, provided that such papers and pleadings bearing one original signature are simultaneously served by regular mail. In computing any period of time under this Order, if any deadline falls on a Saturday, Sunday, or holiday, the deadline shall be the FIRST (1st) BUSINESS DAY after the Saturday, Sunday, or holiday.

It is SO ORDERED.

/s/

Henry Coke Morgan, Jr.
Senior United States District Judge

Henry Coke Morgan, Jr.
Senior United States District Judge

Date: 4/23/14

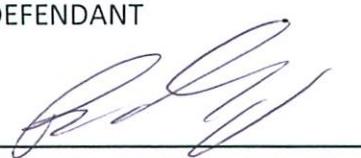
I HEREBY ACKNOWLEDGE RECEIPT OF A COPY OF THE SENTENCING PROCEDURES ORDER.



DEFENDANT

4/23/14

DATE



COUNSEL FOR DEFENDANT

4/23/14

DATE

Melissa E. O'Boyle

COUNSEL FOR THE UNITED STATES

4/23/14

DATE